

ROGER HORNE

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CAUSE NO. 23941-BH03

HOWARD PETERSEN and	) (	IN THE DISTRICT COURT OF
MARY JO PETERSEN,	) (	
Plaintiffs,	) (	
	) (	
VS.	) (	BRAZORIA COUNTY, TEXAS
	) (	
ASHLAND, INC.,	) (	
et al.,	) (	
Defendants.	) (	23rd JUDICIAL DISTRICT

ORAL DEPOSITION OF  
RADM ROGER B. HORNE, USN (RET)  
JANUARY 9, 2004

ORAL DEPOSITION OF RADM ROGER B. HORNE, USN  
(RET), produced as a witness duly sworn by me at the  
instance of Plaintiffs, taken in the above-styled and  
-numbered cause on the 9th day of January, 2004,  
10:00 a.m. to 11:24 o'clock a.m., before JENNIFER L.  
CALDWELL, Certified Shorthand Reporter No. 7190 in and  
for the State of Texas, at the offices of Corr Cronin,  
1001 Fourth Avenue, Suite 3900, Seattle, Washington,  
pursuant to the Texas Rules of Civil Procedure and the  
provisions stated on the record or attached therein.

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EXCERPT

EXHIBIT 59

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P R O C E E D I N G S

(Deposition Exhibits 1-9 marked.)

RADM ROGER B. HORNE, USN (RET),  
having been first duly sworn to testify the truth, the  
whole truth and nothing but the truth, testified as  
follows:

EXAMINATION

BY MR. WOLF: (TIME: 10:06 A.M.)

Q. Good morning, Admiral Horne. This is  
Troyce Wolf with Waters & Kraus in Dallas, Texas. How  
are you?

A. Real fine. Good morning.

Q. Can you hear me okay?

A. I hear you fine.

Q. Admiral, if at any time you can't hear me  
or don't understand any of my questions, just please  
let me know and I'll either up my speakerphone or do  
something different, okay?

A. Okay.

Q. I don't know that I've ever deposed a rear  
admiral before. Is that how you're customarily  
addressed even though you're retired, sir?

A. You can say "Admiral" or you can just use  
my given name. That's fine.

Q. I'll either call you Admiral Horne or sir;

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1 here in the '70s, my experience, being very close in  
2 the marine industry at that time, 1969 -- '68, '69,  
3 the Navy had become aware of the significance of  
4 asbestos as far as health indications were concerned,  
5 and there was an awful lot of very rapid work being  
6 done to gain control of the situation. Certainly by  
7 1971 or 1972, in the work that I was involved in,  
8 there were extensive controls up here in the Puget  
9 Sound area.

10 It's difficult for me to imagine being in  
11 the marine industry and not being aware of the  
12 significance of asbestos. Mr. Petersen says that he's  
13 traveled around quite frequently to other activities,  
14 looking for equipment, one reason or another, and it  
15 just seems to me like he should have known, or his  
16 employer certainly should have known, the significance  
17 of asbestos as far as health is concerned. And he  
18 should have been wearing, as a result of that, some  
19 protection during that particular time frame.

20 Back when these ships were built in the  
21 '40s, the ships that we're talking about, there was  
22 no -- there wasn't, in the Navy, an understanding of  
23 the significance of asbestos.

24 There was no requirement when it comes to  
25 warnings or what have you. The Navy -- If there was a

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1 dangers of asbestos with regard to Ingersoll-Rand, do  
2 you have any opinions or any information in that  
3 regard?

4 A. I'm sorry. Would you repeat the question,  
5 please?

6 Q. Yes, sir. With regard to Ingersoll-Rand's  
7 knowledge about the dangers of asbestos, do you have  
8 any opinions or any knowledge in that regard?

9 MS. FRASE: Objection; form.

10 A. If we go back to the 1940s, I would doubt  
11 very seriously. You know, I don't have any direct  
12 knowledge, obviously, on this, but I don't think that  
13 anybody understood the significance of asbestos as far  
14 as a health hazard is concerned as we understand it  
15 today.

16 Ingersoll-Rand would probably have less  
17 professional reason to know that than, say, the  
18 manufacturers of an asbestos product themselves.

19 Q. (By Mr. Wolf) Okay. And I think you've  
20 answered my question, Admiral, but all I'm asking is:  
21 Do you have any personal knowledge, as we sit here  
22 today, personal knowledge that you hold in your head  
23 today with regard to what Ingersoll-Rand may or may  
24 not have known about the dangers of asbestos?

25 MS. FRASE: Objection; form.

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1 got this right, Admiral, you testified that back when  
2 these older ships were being built -- and let me just  
3 back up a second, Admiral.

4 A ship that would have been decommissioned  
5 and sent to salvage, say, in the early 1970s -- say  
6 '70 to '75 -- do you have an opinion as to how old  
7 most of those ships would have been in general?

8 A. How much -- Say it again.

9 Q. A ship that would have been sent to, say,  
10 the marine salvage yard -- Marine Power & Equipment  
11 salvage yard, say, in 1970 to 1975, do you have an  
12 opinion as to the general age of what those ships  
13 would have been?

14 A. Yes. Well, it would just be an opinion,  
15 you know, based on general knowledge, but I would  
16 assume most of those ships that were being scrapped at  
17 that time were probably 1940s vintage.

18 Q. Okay. And I think you testified, again,  
19 something to the effect that -- and correct me if I'm  
20 wrong, Admiral -- but early on, I guess prior to 1971,  
21 '72, it's your opinion that the Navy had no knowledge  
22 about the dangers of asbestos and, therefore, saw no  
23 need to warn; is that -- Did I get that right?

24 MS. FRASE: Objection; form.

25 A. No, not exactly. I don't know what -- you

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1 know, what people knew about asbestos in general, but  
2 I do know that the significance of asbestos as a  
3 health hazard was most recognized at about that time.

4 Documents that I've looked at -- and I  
5 can't cite you which ones, but I think it was being --  
6 if you go way back, it was probably being treated more  
7 as a dust hazard and not as a cancer-producing problem  
8 in general.

9 But we began to recognize that in about  
10 1969, '68, that there was some -- it was a significant  
11 problem.

12 Q. (By Mr. Wolf) Okay. And then next in  
13 line, Admiral, I have that you testified that you hold  
14 the opinion that Ingersoll-Rand would not be expected  
15 to have provided a warning, correct?

16 A. That's correct.

17 Q. And if you would, sir, tell me the basis  
18 of that opinion.

19 A. Well, the -- You wouldn't expect if  
20 Ingersoll-Rand produced the product -- in other words,  
21 if they produced the insulation product -- and if the  
22 product producer knew that there was a hazard  
23 associated with it, then if that was a subtle hazard,  
24 then I would expect the product producer to let the  
25 Navy know in instruction manuals or what have you.

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